



Billing Code: 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 130409354-3999-02]

RIN 0648-BD21

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;
Revisions to Headboat Reporting Requirements for Species Managed
by the South Atlantic Fishery Management Council**

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement the Joint South Atlantic/Gulf of Mexico Generic Charter Vessel/Headboat Reporting in the South Atlantic Amendment (For-Hire Reporting Amendment). The For-Hire Reporting Amendment amends the following Fishery Management Plans (FMPs): the Snapper-Grouper Fishery of the South Atlantic Region and the Dolphin and Wahoo Fishery of the Atlantic, as prepared by the South Atlantic Fishery Management Council (South Atlantic Council); and the Coastal Migratory Pelagic (CMP) Resources of the Atlantic and Gulf of Mexico (Gulf), as prepared by the Gulf of Mexico Fishery Management Council (Gulf Council) and the South Atlantic Council. This final rule modifies the recordkeeping and

reporting requirements for headboat owners and operators who fish for species managed by the South Atlantic Council through the previously mentioned FMPs. These revisions require fishing records to be submitted electronically (via computer or internet) on a weekly basis or at intervals shorter than a week if notified by the NMFS' Southeast Fisheries Science Center (SEFSC) Science and Research Director (SRD), and prohibits headboats from continuing to fish if they are delinquent in submitting reports. The purpose of this final rule is to obtain timelier fishing information from headboats to better monitor recreational annual catch limits (ACLs), improve stock assessments, and to help obtain 100 percent compliance with reporting in South Atlantic fisheries.

DATES: This rule is effective **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Electronic copies of the For-Hire Reporting Amendment, which includes an environmental assessment and a regulatory impact review, may be obtained from the Southeast Regional Office Web site at <http://sero.nmfs.noaa.gov>.

Comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted in writing to Anik Clemens, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701; and Office of Management and Budget

(OMB), by e-mail at OIRA_Submission@omb.eop.gov, or by fax to 202-395-7285.

FOR FURTHER INFORMATION CONTACT: Karla Gore, Southeast Regional Office, NMFS, telephone 727-824-5305; e-mail: Karla.Gore@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS and the Councils manage the fisheries for South Atlantic Snapper-Grouper, Atlantic Dolphin and Wahoo, and Gulf and South Atlantic CMP under their respective FMPs. The FMPs were prepared by the Gulf and South Atlantic Councils and are implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

On September 18, 2013, NMFS published a notice of availability for the For-Hire Reporting Amendment and requested public comment (78 FR 57339). On September 27, 2013, NMFS published a proposed rule for the For-Hire Reporting Amendment and requested public comment (78 FR 59641). NMFS approved the For-Hire Reporting Amendment on December 16, 2013. The proposed rule and the For-Hire Reporting Amendment outline the rationale for the actions contained in this final rule. A summary of the actions implemented by the For-Hire Reporting Amendment and this final rule is provided below.

This final rule requires electronic reporting for headboat vessels in the South Atlantic snapper-grouper, Atlantic dolphin

and wahoo, and South Atlantic CMP fisheries, increases the reporting frequency for the headboat vessels in these fisheries, and prohibits headboats from continuing to fish if they are delinquent in submitting their reports.

Comments and Responses

NMFS received a total of 6 comments on the For-Hire Reporting Amendment and the proposed rule, which included comments from private citizens, fishermen, non-governmental organizations, and fishermen associations. Four comments were in support of the action contained in the amendment. Three comments provided recommendations that were outside the scope of the amendment and rulemaking. Two comments expressed concern with the requirement for increased reporting frequency. These two comments are summarized into one comment which is responded to below.

Comment: The requirement to report weekly instead of monthly is too burdensome on fishermen.

Response: NMFS estimates the requirement for headboat owners and operators to report more frequently (weekly instead of monthly) does not create more burden on headboat owners and operators. Keeping accurate records is essential to successful business operation. As a result, recording trips as they are completed, or as soon as is practical, is expected to be the common business practice. Electronic recording and reporting is

expected to support additional labor and business management efficiencies because it is expected to allow better data storage, retrieval, and production of annual performance summaries for use in business planning. Therefore, the increase in the frequency of reporting is expected to require little, if any, change in business practices or associated operational costs. Headboat owners and operators will still be reporting the same amount of information; they will just be clicking the send button to transmit the data more frequently. Currently, 95 percent of headboats are reporting electronically, and 80 to 90 percent of these headboats are submitting their monthly reports on time. This requirement is intended to obtain timelier fishing information from headboats to better monitor recreational ACLs, improve stock assessments, and to help obtain 100 percent compliance with reporting in South Atlantic fisheries.

Classification

The Regional Administrator, Southeast Region, NMFS, has determined that this final rule is necessary for the management of the South Atlantic snapper-grouper, dolphin and wahoo, and CMP fisheries and is consistent with the For-Hire Reporting Amendment, the FMPs, the Magnuson-Stevens Act and other applicable law.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this rule would not have a significant economic impact on a substantial number of small entities. The factual basis for this determination was published in the proposed rule and is not repeated here. No comments were received regarding the certification and NMFS has not received any new information that would affect its determination. As a result, a final regulatory flexibility analysis was not required and none was prepared.

This final rule contains collection-of-information requirements subject to the requirements of the Paperwork Reduction Act (PRA), which have been approved by OMB under control number 0648-0016. NMFS estimates the requirement for South Atlantic headboat owners and operators to report electronically results in a net zero effect on the reporting burden under OMB control number 0648-0016, because headboat owners and operators will continue to report all species harvested, however, now electronically instead of by paper. NMFS estimates the requirement for headboat owners and operators to report more frequently (weekly instead of monthly) does not create more burden on headboat owners and operators, because the

headboat owners and operators will still be reporting the same amount of information; they will just be clicking the send button to transmit the data more frequently. Keeping accurate records is essential to successful business operation. As a result, recording trips as they are completed, or as soon as is practical, is expected to be the common business practice. These estimates of the public reporting burden include the time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection-of-information.

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection-of-information subject to the requirements of the PRA, unless that collection-of-information displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Headboat, Reporting and recordkeeping requirements, South Atlantic.

Dated: December 20, 2013.

Alan D. Risenhoover,
Director, Office of Sustainable Fisheries,
performing the functions and duties of the
Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622
is amended as follows:

PART 622--FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH
ATLANTIC

1. The authority citation for part 622 continues to read as follows:

Authority: 16 U.S.C. 1801 et seq.

2. In § 622.13, paragraph (g) is added to read as follows:

§ 622.13 Prohibitions--general.

* * * * *

(g) Harvest or possess fish if the required headboat reports have not been submitted in accordance with this part.

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3. In § 622.176, paragraph (b) is revised to read as follows:

§ 622.176 Recordkeeping and reporting.

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(b) Charter vessel/headboat owners and operators--(1)
General reporting requirement--(i) Charter vessels. The owner or operator of a charter vessel for which a charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, as required under § 622.170(b)(1), or whose vessel fishes for or lands such snapper-grouper in or from state waters adjoining the South Atlantic EEZ, who is selected to report by the SRD must maintain a fishing record for each trip, or a portion of such trips as specified by the SRD, on forms provided by the SRD and must submit such record as specified in paragraph (b)(2) of this section.

(ii) Headboats. The owner or operator of a headboat for which a charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, as required under § 622.170(b)(1), or whose vessel fishes for or lands such snapper-grouper in or from state waters adjoining the South Atlantic EEZ, who is selected to report by the SRD must submit an electronic fishing record for each trip of all fish harvested within the time period specified in paragraph (b)(2)(ii) of this section, via the Southeast Region Headboat Survey.

(iii) Electronic logbook/video monitoring reporting. The owner or operator of a vessel for which a charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, as required under § 622.170(b)(1), or whose vessel fishes for or lands such snapper-grouper in or from state waters adjoining the South Atlantic EEZ, who is selected to report by the SRD must participate in the NMFS-sponsored electronic logbook and/or video monitoring program as directed by the SRD. Compliance with the reporting requirements of this paragraph (b)(1)(iii) is required for permit renewal.

(2) Reporting deadlines--(i) Charter vessels. Completed fishing records required by paragraph (b)(1)(i) of this section for charter vessels must be submitted to the SRD weekly, postmarked no later than 7 days after the end of each week (Sunday). Completed fishing records required by paragraph

(b)(1)(iii) of this section for charter vessels may be required weekly or daily, as directed by the SRD. Information to be reported is indicated on the form and its accompanying instructions.

(ii) Headboats. Electronic fishing records required by paragraph (b)(1)(ii) of this section for headboats must be submitted at weekly intervals (or intervals shorter than a week if notified by the SRD) by 11:59 p.m., local time, the Sunday following a reporting week. If no fishing activity occurred during a reporting week, an electronic report so stating must be submitted for that reporting week by 11:59 p.m., local time, the Sunday following a reporting week.

(3) Catastrophic conditions. During catastrophic conditions only, NMFS provides for use of paper forms for basic required functions as a backup to the electronic reports required by paragraph (b)(1)(ii) of this section. The RA will determine when catastrophic conditions exist, the duration of the catastrophic conditions, and which participants or geographic areas are deemed affected by the catastrophic conditions. The RA will provide timely notice to affected participants via publication of notification in the Federal Register, NOAA weather radio, fishery bulletins, and other appropriate means and will authorize the affected participants' use of paper forms for the duration of the catastrophic

conditions. The paper forms will be available from NMFS. During catastrophic conditions, the RA has the authority to waive or modify reporting time requirements.

(4) Compliance requirement. Electronic reports required by paragraph (b)(1)(ii) of this section must be submitted and received by NMFS according to the reporting requirements under this section. A report not received within the time specified in paragraph (b)(2)(ii) of this section is delinquent. A delinquent report automatically results in the owner and operator of a headboat for which a charter vessel/headboat permit for South Atlantic snapper-grouper has been issued being prohibited from harvesting or possessing such species, regardless of any additional notification to the delinquent owner and operator by NMFS. The owner and operator who are prohibited from harvesting or possessing such species due to delinquent reports are authorized to harvest or possess such species only after all required and delinquent reports have been submitted and received by NMFS according to the reporting requirements under this section.

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4. In § 622.271, paragraph (b) is revised to read as follows:

§ 622.271 Recordkeeping and reporting.

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(b) Charter vessel/headboat owners and operators--(1)

General reporting requirement--(i) Charter vessels. The owner or operator of a charter vessel for which a charter vessel/headboat permit for Atlantic dolphin and wahoo has been issued, as required under § 622.270(b)(1), or whose vessel fishes for or lands Atlantic dolphin or wahoo in or from state waters adjoining the Atlantic EEZ, who is selected to report by the SRD must maintain a fishing record for each trip, or a portion of such trips as specified by the SRD, on forms provided by the SRD and must submit such record as specified in paragraph (b)(2) of this section.

(ii) Headboats. The owner or operator of a headboat for which a charter vessel/headboat permit for Atlantic dolphin and wahoo has been issued, as required under § 622.270(b)(1), or whose vessel fishes for or lands Atlantic dolphin or wahoo in or from state waters adjoining the South Atlantic EEZ, who is selected to report by the SRD must submit an electronic fishing record for each trip of all fish harvested within the time period specified in paragraph (b)(2)(ii) of this section, via the Southeast Region Headboat Survey.

(2) Reporting deadlines--(i) Charter vessels. Completed fishing records required by paragraph (b)(1)(i) of this section for charter vessels must be submitted to the SRD weekly, postmarked no later than 7 days after the end of each week

(Sunday). Information to be reported is indicated on the form and its accompanying instructions.

(ii) Headboats. Electronic fishing records required by paragraph (b)(1)(ii) of this section for headboats must be submitted at weekly intervals (or intervals shorter than a week if notified by the SRD) by 11:59 p.m., local time, the Sunday following a reporting week. If no fishing activity occurred during a reporting week, an electronic report so stating must be submitted for that reporting week by 11:59 p.m., local time, the Sunday following a reporting week.

(3) Catastrophic conditions. During catastrophic conditions only, NMFS provides for use of paper forms for basic required functions as a backup to the electronic fishing records required by paragraph (b)(1)(ii) of this section. The RA will determine when catastrophic conditions exist, the duration of the catastrophic conditions, and which participants or geographic areas are deemed affected by the catastrophic conditions. The RA will provide timely notice to affected participants via publication of notification in the Federal Register, NOAA weather radio, fishery bulletins, and other appropriate means and will authorize the affected participants' use of paper forms for the duration of the catastrophic conditions. The paper forms will be available from NMFS. During catastrophic conditions, the RA has the authority to

waive or modify reporting time requirements.

(4) Compliance requirement. Electronic reports required by paragraph (b)(1)(ii) of this section must be submitted and received by NMFS according to the reporting requirements under this section. A report not received within the time specified in paragraph (b)(2)(ii) of this section is delinquent. A delinquent report automatically results in the owner and operator of a headboat for which a charter vessel/headboat permit for Atlantic dolphin and wahoo has been issued being prohibited from harvesting or possessing such species, regardless of any additional notification to the delinquent owner and operator by NMFS. The owner and operator who are prohibited from harvesting or possessing such species due to delinquent reports are authorized to harvest or possess such species only after all required and delinquent reports have been submitted and received by NMFS according to the reporting requirements under this section.

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5. In § 622.374, paragraph (b) is revised to read as follows:

§ 622.374 Recordkeeping and reporting.

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(b) Charter vessel/headboat owners and operators--(1)
General reporting requirement--(i) Charter vessels. The owner

or operator of a charter vessel for which a charter vessel/headboat permit for Gulf coastal migratory pelagic fish or South Atlantic coastal migratory pelagic fish has been issued, as required under § 622.370(b)(1), or whose vessel fishes for or lands Gulf or South Atlantic coastal migratory pelagic fish in or from state waters adjoining the Gulf or South Atlantic EEZ, who is selected to report by the SRD must maintain a fishing record for each trip, or a portion of such trips as specified by the SRD, on forms provided by the SRD and must submit such record as specified in paragraph (b)(2)(i) of this section.

(ii) South Atlantic headboats. The owner or operator of a headboat for which a charter vessel/headboat permit for South Atlantic coastal migratory fish has been issued, as required under § 622.370(b)(1), or whose vessel fishes for or lands South Atlantic coastal migratory pelagic fish in or from state waters adjoining the South Atlantic EEZ, who is selected to report by the SRD must submit an electronic fishing record of each trip of all fish harvested within the time period specified in paragraph (b)(2)(ii) of this section, via the Southeast Region Headboat Survey.

(iii) Gulf headboats. The owner or operator of a headboat for which a charter vessel/headboat permit for Gulf coastal migratory pelagic fish has been issued, as required under §

622.370(b)(1), or whose vessel fishes for or lands Gulf coastal migratory fish in or from state waters adjoining the Gulf EEZ, who is selected to report by the SRD must maintain a fishing record for each trip, or a portion of such trips as specified by the SRD, on forms provided by the SRD and must submit such record as specified in paragraph (b)(2)(iii) of this section.

(2) Reporting deadlines--(i) Charter vessels. Completed fishing records required by paragraph (b)(1)(i) of this section for charter vessels must be submitted to the SRD weekly, postmarked no later than 7 days after the end of each week (Sunday). Information to be reported is indicated on the form and its accompanying instructions.

(ii) South Atlantic headboats. Electronic fishing records required by paragraph (b)(1)(ii) of this section for South Atlantic headboats must be submitted at weekly intervals (or intervals shorter than a week if notified by the SRD) by 11:59 p.m., local time, the Sunday following a reporting week. If no fishing activity occurred during a reporting week, an electronic report so stating must be submitted for that reporting week by 11:59 p.m., local time, the Sunday following a reporting week.

(iii) Gulf headboats. Completed fishing records required by paragraph (b)(1)(iii) of this section for Gulf headboats must be submitted to the SRD monthly and must be made available to an authorized statistical reporting agent or be postmarked no later

than 7 days after the end of each month. Information to be reported is indicated on the form and its accompanying instructions.

(3) Catastrophic conditions. During catastrophic conditions only, NMFS provides for use of paper forms for basic required functions as a backup to the electronic reports required by paragraph (b)(1)(ii) of this section. The RA will determine when catastrophic conditions exist, the duration of the catastrophic conditions, and which participants or geographic areas are deemed affected by the catastrophic conditions. The RA will provide timely notice to affected participants via publication of notification in the Federal Register, NOAA weather radio, fishery bulletins, and other appropriate means and will authorize the affected participants' use of paper forms for the duration of the catastrophic conditions. The paper forms will be available from NMFS. During catastrophic conditions, the RA has the authority to waive or modify reporting time requirements.

(4) Compliance requirement. Electronic reports required by paragraph (b)(1)(ii) of this section must be submitted and received by NMFS according to the reporting requirements under this section. A report not received within the time specified in paragraph (b)(2)(ii) of this section is delinquent. A delinquent report automatically results in the owner and

operator of a headboat for which a charter vessel/headboat permit for South Atlantic coastal migratory pelagic fish has been issued being prohibited from harvesting or possessing such species, regardless of any additional notification to the delinquent owner and operator by NMFS. The owner and operator who are prohibited from harvesting or possessing such species due to delinquent reports are authorized to harvest or possess such species only after all required and delinquent reports have been submitted and received by NMFS according to the reporting requirements under this section.

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[FR Doc. 2013-31069 Filed 12/26/2013 at 8:45 am; Publication Date: 12/27/2013]